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SUBJECT: INSURANCE ISSUES IN FTA NEGOTIATIONS WITH COLOMBIA

REF: STATE 82588

1. Following is post's response to REFTEL request for information on Colombia's insurance sector in preparation for FTA negotiations which begin on May 17.

2. Begin Questions and Answers:

Q: Has the country engaged in any treaties in which they grant insurance-sector preferences to another country? If so, please provide details.

A: Colombia is not party to any treaties granting insurance preferences to other countries.

Q: Are there equity limits for foreign insurance companies? If so, are there foreign insurance companies in the market place with equity higher than the current restriction?

A: There are no equity limits for foreign insurance companies in Colombia. Over 60% of insurers are foreign.

Q: Are there legal limitations on the structure of foreign insurance companies operating in the host country (e.g. branch, subsidiary, joint-venture, representative office)?

A: Yes, Decree 663 of 1993 prohibits transactions with foreign insurance firms or their representatives if they do not have a commercial presence in the country. This limitation applies not only to life insurance, pensions, and health insurance, but also to insurance for transportation of people and merchandise. Foreign insurance companies must establish commercial presence in the country through subsidiaries.

Q: Can insurance companies engage in non-life, life and reinsurance activities from the same legal entity?

A: No. Insurance companies cannot engage in different insurance activities from the same legal entity (except for some complementary activities as provided by law.) Life insurance companies cannot engage in any other insurance activity. Likewise, reinsurance companies are only authorized to engage in reinsurance activities.

Q: Does the host country allow universal banking via foreign firms?

A: Foreign providers are not barred from any activity as long as they are established as a subsidiary with commercial presence. This means they must comply with minimum capital requirements as local companies. Foreign insurance companies are not allowed to operate as branch offices (except for advertising purposes). Banks cannot engage in different financial activities; management for each activity must be separate.

Q: What types of insurance services are compulsory? Are foreign insurers allowed to provide compulsory insurance?

A: All automobile owners must purchase third-party auto insurance. Also, work-related accident insurance is mandatory in workmen's compensation plans. Foreign insurers are allowed to provide compulsory insurance.

Q: Is there an obligatory pension scheme? Is there a voluntary pension system? Do private firms manage voluntary pensions? Is the market open to foreign participants? If private firms can manage the voluntary portion of an employee's pension, is this open to foreign competition?

A: A mandatory pension contribution of 13.5 percent of salary must be deposited either in the state pension fund (ISS) or in a private fund. According to the pension reform of 2003, this contribution will increase one percentage point in 2004 and two percentage points in 2005. Moreover, the minimum retirement age will increase from the current 60 for men and 55 for women (valid until 2008) to 62 for men and 58 for women (from 2009-2018) to finally 65 for men and 62 for women after 2018. A system for voluntary pensions also exists. Private and public pension funds are able to manage contributions to voluntary pension systems. Pension funds

can only invest up to 10 percent of their portfolios abroad. The pension market (mandatory and voluntary regimes) is open to foreign competition.

Q: Are capital controls applied to firms in the insurance sector?

A: There are no capital controls in the insurance sector.

Q: What are the established capitalization levels? Are there capitalization differences for domestic and foreign firms?

A: According to Colombian law, all insurance companies in Colombia (except reinsurance companies) must maintain minimum capitalization levels of 7.5 billion Colombian pesos (or approximately US\$ 2.5 million.) Reinsurance companies must maintain minimum capitalization levels of 23.4 billion Colombian pesos (or approximately US\$ 8.5 million.) There are no capitalization differences for domestic and foreign firms.

Q: Are there limitations on how the minimum technical capital can be invested? Can it be invested abroad?

A: 100 percent of the required technical capital must be invested in government bonds or bonds issued by the Central Bank, or FOGAFIN, or any other stock or securities issued by private or public firms as approved by Decree 094 of 2000 and Decree 2779 of 2001. It should be noted that minimum technical capital is defined as the difference between the present value of future risk (that would be paid by the insurance provider) and the present value of net payments (by the insured legal entity). Additional statutory capital that is not part of the minimum technical capital has no limitations and can be freely invested. A maximum of 10 percent of a company's investment portfolio can be invested in securities issued by the same legal entity.

Q: Does the state insurance control body provide public notice and an opportunity for public comment in the development of new insurance regulations?

A: The Banking Superintendent acts as the state insurance control body. All new insurance regulations are published on their website www.superbancaria.gov.co. There are no established procedures for prior comment on new insurance regulations.

Q: Are there any state-controlled insurance or reinsurance companies in the market place and, if so, are there any requirements for mandatory reinsurance cessions to these companies?

A: There are no state-controlled insurance or reinsurance companies, nor mandatory reinsurance cessions. All reinsurance companies operating in Colombia are foreign reinsurance companies. Reinsurance activity is liberal in Colombia. All foreign reinsurance companies are required to register with the Banking Superintendent.

Q: Are there any limits on the consumption abroad of insurance services?

A: Consumption of insurance services abroad is strongly restricted in Colombia, including insurance for transportation services needed abroad. The purchase of insurance abroad is allowed only when no similar insurance service is available domestically. To purchase insurance services abroad, the purchaser must be authorized by the Banking Superintendent.

Q: What types of insurance may be provided cross-border?

A: Colombian legislation restricts all cross-border insurance activity, including insurance for transportation services as explained above. Locally established insurance companies must provide insurance for vessels, airplanes, and automobiles operating domestically, even those under a foreign flag. The Financial Statute prohibits transactions with insurance companies that are not legally registered and established in Colombia. Such limitations include life and non-life insurance.

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